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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/971,954	10/04/2001	Robert D. Glaser	REALNET.1C1C2	5632
25943	7590	08/26/2004	EXAMINER	
SCHWABE, WILLIAMSON & WYATT, P.C. PACWEST CENTER, SUITES 1600-1900 1211 SW FIFTH AVENUE PORTLAND, OR 97204			LIN, WEN TAI	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/971,954	GLASER ET AL. <i>(AS)</i>
Examiner	Art Unit	
Wen-Tai Lin	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 May 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 22-44 is/are pending in the application.
 - 4a) Of the above claim(s) 22-44 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 22-44 are presented for examination.
2. Newly submitted claims 22-44 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
 - I. Claims 1-21, drawn to a method/apparatus on streaming an audio clip and processing of the transferred data, classified in class 709, subclass 231.
 - II. Claims 22-44, drawn to a method/apparatus on controlling record carrier movement or position with respect to a transducing position, wherein the record carrier movement is controlled to bring selected areas of the record into operative position at the recording head to transduce the information recorded thereat, classified in class 360, subclass 72.1 or 72.2.
3. The inventions are distinct, each from the other because Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as streaming an audio clip over any data network. See MPEP 806.05(d).

4. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 22-44 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP 821.03 .

5. The amendment filed on 5/24/2004 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP 821.03). The remaining claims are not readable on the elected invention because they were newly added claims along with the amendment.

6. Applicant indicated over a telephone interview (see the attached interview summary) an intention for filing an RCE. In order to clear the way for RCE filing, the previous notice of non-responsive amendment, filed 7/16/2004, is withdrawn and the prosecution on claims 22-44 is thereby closed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (703)305-4875. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703)305-8498. The fax phone

numbers for the organization where this application or proceeding is assigned are as follows:

(703)872-9306 for official communications; and

(703)746-5516 for status inquiries draft communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Wen-Tai Lin

August 17, 2004

Wen-Tai Lin
7/18/04